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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/791,833	03/04/2004	Ignacio Vial B.	7353	3851

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EXAMINER

GROSSO, HARRY A

ART UNIT	PAPER NUMBER
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3727

DATE MAILED: 07/13/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/791,833

Applicant(s)

B., IGNACIO VIAL

Examiner

Harry A. Grosso

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 04 March 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-5 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-5 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 04 March 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>3/4/04</u> . | 6) <input type="checkbox"/> Other: _____ |

Drawings

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the complementary hinge means (claim 2), the head walls and main sidewalls forming a single piece with the bottom wall (claim 3) and the finger pull consisting in a portion of wall, tab or pin substantially normal to the main plane of the head wall (claim 5) must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.
2. The drawings are objected to because It is unclear what element (19) is indicating when comparing Figures 5A and 5B.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner,

the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Objections

3. Claim 1 is objected to because of the following informalities: Claim 1 contains numerous misspellings, word spacing errors and grammatical errors. Appropriate correction is required.

Claim Rejections - 35 USC § 112

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claim 1 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

6. Claim 1 appears to be an open type claim (e.g. "comprising") with respect to the box construction but appears to be a closed type claim (e. g. "consisting of") with respect to the unlocking means of the sidewalls. It is unclear which type of claim is intended. For purposes of examination, the examiner has treated this claim as an open type claim.

7. Claim 1 recites the limitation "the lateral edges" in line 7, page 8. There is insufficient antecedent basis for this limitation in the claim.

8. Claim 1 recites the limitation "the side edges" in line 10, page 8. There is insufficient antecedent basis for this limitation in the claim.

9. Claim 1 recites the limitation "the main plane of the head wall" in line 11, page 8.

There is insufficient antecedent basis for this limitation in the claim.

10. Claim 1 recites the limitation "the plane" in line 11, page 8. There is insufficient antecedent basis for this limitation in the claim.

11. Claim 1 recites the limitation "the incline face" in line 15, page 8. There is insufficient antecedent basis for this limitation in the claim.

12. Claim 1 recites the limitation "the vertical edge end" in line 16, page 8. There is insufficient antecedent basis for this limitation in the claim.

13. Claim 1 recites the limitation "said junction" in line 20, page 8. There is insufficient antecedent basis for this limitation in the claim.

14. Claim 1 recites the limitation "the external main face" in line 22, page 8. There is insufficient antecedent basis for this limitation in the claim.

15. Claim 1 recites the limitation "the corresponding lateral end " in line 3, page 9. There is insufficient antecedent basis for this limitation in the claim.

16. Claim 1 recites the limitation "the longitudinal section" in line 6, page 9. There is insufficient antecedent basis for this limitation in the claim.

17. Claim 1 recites the limitation "the corresponding main sidewall" in line 12, page 9. There is insufficient antecedent basis for this limitation in the claim.

18. Claim 1 recites the limitation "the main internal surface" in line 13, page 9. There is insufficient antecedent basis for this limitation in the claim.

19. Claim 1 recites the limitation "the corresponding projections" in line 17, page 9. There is insufficient antecedent basis for this limitation in the claim.

20. Claim 1 recites the limitation "said lateral main sidewall" in line 4, page 10. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 103

21. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

22. Claims 1, 2, 4 and 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Murakami et al (6,669,044) in view of Moorman et al (2002/0108950, August 15, 2002).

23. Regarding claims 1 and 5, Murakami et al discloses a foldable rigid box with bottom wall, two head walls (3, Figure 1), two sidewalls (2), and unlocking means for the sidewalls (17). Murakami further discloses a fastener on the head wall (17, Figures 3 and 10B, column 5, lines 27-32), with a wedge portion and an operating side (18), the wide zone of the wedge portion is closer to the edge of the head wall and the narrowest zone is attached to the head wall to form a cantilever. Murakami further discloses an end wall portion on the head wall (4, Figures 10A and 10B) with protrusions (14) located over, by and below the fastener and distanced from the head wall so end lip portion (19) can be housed inside the protrusion at the top of the box and a lock portion on the sidewalls with end lip portion (19) and housing box (15) which is oriented outward of the main sidewall. However, Murakami et al does not teach the use of a projection for a finger pull. Moorman discloses a foldable rigid box and a sidewall unlocking means

similar to the box of Murakami et al with a projection for a finger pull tab normal to the external the face of the wedge portion and not outstanding the head wall for operating the unlocking means from outside the box (251, Figures 1 and 9, paragraph 0064). It would have been obvious to one of ordinary skill in the art at the time the invention was made to have incorporated the use of a projection for a finger pull tab normal to the external the face of the wedge portion of the unlocking means and not outstanding the head wall as disclosed by Moorman et al in the box disclosed by Murakami et al for operating the unlocking means from outside the box.

24. Regarding claim 2, Murakami et al discloses the head wall and sidewalls are attached to the bottom by hinge means (Figures 2 and 3, column 4, lines 26-29).

25. Regarding claim 4, it would have been an obvious matter of design choice to provide the unlocking means with a projection for finger pull consisting of a curved wall defining a pocket between it and the external face of the wedge portion. Applicant has not disclosed that the shape of the projection for the finger pull solves any stated problem or is for any particular purpose and it appears the invention would perform equally well with the a projection for the finger pull having any typical shape such as that disclosed by Moorman et al and by the applicant.

26. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Murakami et al and Moorman et al as applied to claim 1 above, and further in view of Joffe (4,887,874). The box of claim 1 is disclosed as discussed above but Murakami et al and Moorman et al do not teach the box having the bottom, head walls and sidewalls forming a single piece. Joffe discloses a knockdown box with bottom, head walls and

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sidewalls forming a single piece for ease of storage, handling and assembly (Figures 2-4) It would have been obvious to one of ordinary skill in the art at the time the invention was made to have incorporated the use of a box with bottom, head walls and side walls forming a single piece as disclosed by Joffe in the box disclosed by claim 1 for ease of storage, handling and assembly.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Harry A. Grosso whose telephone number is 571-272-4539. The examiner can normally be reached on Monday through Thursday from 7am to 4 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nathan Newhouse can be reached on 571-272-4544. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Nathan Newhouse
Supervisory Patent Examiner
Art Unit 3727

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